

**UNITED STATES OF AMERICA
BEFORE THE
UNITED STATES DEPARTMENT OF ENERGY**

**RE: INTERSTATE ELECTRIC TRANSMISSION SYSTEM;
ELECTRIC RELIABILITY ISSUES;
NOTICE OF INQUIRY**

COMMENTS OF PJM INTERCONNECTION, L.L.C.

PJM Interconnection L.L.C. (“PJM”) is pleased to provide these Comments to the United States Department of Energy (“Department” or “DOE”) in response to its November 20, 2000 Notice of Inquiry relative to electric reliability issues.¹

As the independent system operator (“ISO”) in a five-state region stretching from Virginia to New Jersey, PJM operates the largest competitive electricity market in the world. The PJM market is the most liquid in North America involving nearly 200 market participants. The PJM control area includes approximately 58,000 MW of generation, 540 generating units, and over 8,000 miles of transmission. Over 60 load aggregators participate in highly successful retail choice programs in four states in the PJM region. An independent Board of Managers oversees PJM and has a fiduciary duty to maintain “the safe and reliable operation” of the PJM region and ensure “the creation and operation of a robust, competitive and non-discriminatory electric power market.” PJM Operating Agreement, Sec. 7.7(i). Both its regulators and its members have hailed PJM as “the most efficient power market in the country.” See, e.g., San

¹ PJM notes that the Department referenced the report of its Power Outage Study Team in the Supplementary Information portion of its Notice of Inquiry. PJM previously commented on that report. See Letter Dated January 25, 2001 from Phillip G. Harris to Paul Carrier, United States Department of Energy: “PJM Comments on the DOE Power Outage Study Team Interim Report.”

Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Services into Markets Operated by the California Independent System Operator & the California Exchange, 93 FERC ¶ 61,294, slip op. at 4 (Dec. 15, 2000) (Massey concurrence).

Within its region PJM has improved short-term and long-term reliability of the regional grid, while operating what has been cited as the most successful competitive electricity market in the nation. For example, in the PJM region, very few transactions have been curtailed through use of North American Electric Reliability Council (“NERC”) national transmission line loading relief procedures (“TLRs”). Curtailments have been greatly reduced because PJM offers transmission service that includes the option to buy through congestion.² Furthermore, PJM leads the way in regional reliability because of its superior congestion management process, its regulation service market that not only provides more available regulation service but also results in higher system control performance scores, its pilot load reduction program that helps to relieve emergency conditions, its regional expansion plan process that has resulted in significant additional new generation in PJM, and its ability to continue to expand its system model to better ensure additional evaluation of voltage and thermal conditions. PJM also is working to extend these processes to manage the reliability and markets of an even wider geographical region by establishing “PJM West” for Allegheny Power and Duquesne Light.

As detailed in these comments, PJM believes that any Federal Energy Regulatory Commission (“FERC”) rulemaking requested by the Department should have, as its primary focus, the establishment of strong and effective regional transmission organizations (“RTOs”) covering a broad geographic area as the primary entities charged with maintaining and enforcing

² See PJM Interconnection L.L.C., 86 FERC ¶ 61,015 (1999).

reliability within their regions. Any national standard-setting organization should only create broad “umbrella” standards that then can be tailored to the specific needs of the regions.

PJM addresses the specific questions raised in the November 20 Notice of Inquiry as follows:

- 1. Is the existing arrangement of voluntary compliance with industry reliability rules sufficient to ensure reliability of the bulk power transmission system? If not, why not, and has reliability been jeopardized by violations of the existing bulk power reliability standards?**

Answer: The Department’s characterization of the existing regime as one of only voluntary compliance with industry reliability rules does not necessarily reflect the current universal state of affairs. By its agreements filed with and approved by FERC, PJM already is ensuring reliability within its control area both on a short-term operating basis and through long-term planning. These activities are consistent with FERC Order No. 2000,³ which mandates that an RTO be responsible for short-term reliability and long-term planning. See 18 C.F.R. §§ 35.34(j)(4), 35.34(k)(7) (2000).⁴

PJM’s successful track record of maintaining and improving reliability while facilitating a robust competitive market is definitive proof that the present system can work to maintain and improve reliability when coupled with strong and effective RTOs. Where well-functioning RTOs are in place over a broad region, reliability can be maintained and enhanced; where they are not, reliability problems can arise. Moreover, an RTO is able, on a daily basis, to meld the real-time maintenance of reliability and the successful operation of the market. Both functions need to be

³ Regional Transmission Organizations, Order No. 2000, III FERC Stats. & Regs., Regs. Preambles ¶ 31,089, order on reh’g, Order No. 2000-A, III FERC Stats. & Regs., Regs. Preambles ¶ 31,092 (2000).

⁴ On October 11, 2000, PJM filed with the FERC its Order No. 2000 compliance filing to become an RTO. This filing is pending in FERC Docket No. RT01-2-000.

undertaken simultaneously if they are to function in harmony. In short, the Department's focus ought to be on supporting the establishment, as soon as possible, of strong, effective, and properly configured RTOs with independent governance structures and defined reliability responsibilities. These entities would serve on the "front line" maintaining reliability of the electric power grid.

PJM is supportive of the establishment of a national standard-setting organization, which would establish broad "umbrella" standards ensuring a certain base level of reliability throughout the nation. The NERC CPS I and II and DCS are examples of such broad standards and are followed and strictly enforced within the PJM region. By the same token, PJM supports legislation allowing for the enforcement of such standards. PJM believes that the RTOs in each region are best equipped to tailor those broad umbrella standards to local requirements and to enforce those standards within the region. PJM would be concerned if a national standard-setting organization becomes involved in the daily operations of an RTO through the establishment of myriad standards and enforcement of the same. These operational matters are best left to the individual RTOs to determine and enforce in a manner that meets their unique regional needs. As recently stated by FERC Chairman James Hoecker to the NERC Board of Trustees, "neither the NERC's reliability policies nor FERC's market competition policies will succeed unless they compliment [sic] one another and move forward together."⁵

2. What can FERC do under existing authorities to address reliability concerns?

Answer: FERC already has begun to use its existing authority to ensure the maintenance of short-term and long-term reliability in the regions. FERC has required that in

⁵ Chairman James J. Hoecker, Remarks at the North American Electric Reliability Council Board of Trustees Meeting (June 22, 2000) (transcript available on the FERC website www.ferc.fed.us)

order for any ISO or Transco to receive approval as an RTO, it must have exclusive authority over short-term reliability and must undertake long-term planning for the region in order to ensure long-term reliability of the electric power grid. Thus, FERC, through its Order No. 2000, already has made maintenance of reliability a condition precedent to obtaining certified RTO status.

Moreover, FERC maintains certain ongoing authority over those regional arrangements entered into by electric utilities under its jurisdiction. Section 202(a) of the Federal Power Act, which DOE authorized FERC to implement, delegates to FERC authority to:

[D]ivide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnected and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and between such districts.

16 U.S.C. § 824a.

Although the legal authority cited above obviously does not reach to entities beyond FERC's jurisdiction, such as municipal utilities, co-ops and Federal power marketing agencies, PJM believes that FERC's actions in Order No. 2000, when coupled with strong support for the creation and maintenance of effective, fully functional RTOs throughout the nation, can go a long way to addressing the perceived shortcomings in reliability authority that are intimated in the Department's Notice of Inquiry.

3. If FERC has the authority to establish and enforce reliability standards, may FERC delegate such authority to a self-regulating reliability organization? Should it do so?

Answer: It is not clear from this question exactly what the Department means by FERC “delegat(ing) such authority.” ISOs throughout the United States, including PJM, are undertaking the functions of maintaining reliability, operating markets, and engaging in long-range planning on a daily basis. In this regard, they are carrying out those activities, which FERC directed and, in that sense, are operating pursuant to delegated authority.

In the PJM control area, before matters are even brought to FERC, PJM works to resolve disputes and address issues through a recognized open stakeholder process. PJM believes that similar “delegation” should occur on a national basis in the reliability area. FERC should not cede any of its ultimate authority to resolve reliability disputes or to address reliability policy and issues. Parties should not be asked to waive their rights to due process and appeal. However, neither external reliability organizations nor FERC should be involved in the day-to-day operations of any RTO in the country or to obviate use of open stakeholder processes prior to matters coming to the FERC.

It is especially important that any new standard-setting entities should be carefully crafted so as not to artificially inhibit creative and innovative market solutions to complex electrical problems. With the rapid changes in technology, the electric industry is developing solutions to complex problems that in the past could only be solved by traditional government regulation. Any such entities should be open and adaptable to embrace technology and market solutions. This is especially important in the area of reliability, since it is oftentimes difficult to separate it from market economics.

4. Are there elements in CECA, or other electric reliability legislative language, which can, with or without modification, be used in a rulemaking?

Answer: PJM believes that the final compromises contained in H.R. 4941 in the 106th Congress provided a far better legislative balance for the bundling of reliability issues than the version that passed the Senate last year (S. 2071). H.R. 4941 included key amendments, agreed to by NERC and PJM, aimed at ensuring a critical role for RTOs and FERC in balancing NERC standards with requirements of FERC-accepted agreements and tariffs. PJM stands ready to work with all parties on reliability legislation that embodies those principles and which is appropriately updated, given the formation of RTOs and the provisions of Order No. 2000. Furthermore, it is appropriate for FERC to have reliability jurisdiction over that one-third of the national electric grid that is currently beyond its jurisdictional reach.

By the same token, we believe that any FERC rulemaking should incorporate provisions that ensure that regional solutions will be respected while maintaining broad overarching national standards. This preference for regional solutions rather than a “one-size-fits-all” national solution is already embodied in FERC Order No. 2000, which puts RTOs, instead of the national organization, in charge of maintaining short-term reliability in their areas. Thus, the seeds of what is needed are already in FERC Order No. 2000; it may be the appropriate time for the FERC to enforce those standards by requiring the formation of effective fully-functional RTOs in each region of the country.

5. What should the relationship be between Regional Transmission Organizations, as advanced in FERC Order No. 2000 and an Electric Reliability Organization as proposed in CECA?

Answer: As noted above, PJM believes that FERC has made the right policy decision by assigning the authority over short-term reliability and long-range planning to the individual RTOs. FERC correctly realized that one cannot address reliability in a vacuum; the

maintenance of reliability must be integrated into the daily functioning of commercial markets. Only RTOs, which are charged with both responsibilities, will have the on-the-ground, real-time ability to integrate these two critical goals.

The provisions of CECA which assign responsibility over reliability to a national reliability organization without defining the term “reliability” or providing a role for the RTOs tend to undo the careful balance that FERC crafted in Order No. 2000. PJM believes that if there is deemed a need by FERC or the Department for a rulemaking to establish a reliability organization (assuming, arguendo that there is appropriate legal authority for FERC to undertake such a rulemaking), then such a rulemaking should underscore Order No. 2000’s assignment of such functions to the RTO. A national reliability organization could promulgate broad standards such as the NERC CPS I and II. But the application of those standards to the individual regions should be left to the individual RTOs subject to FERC oversight.

6. How should the responsibilities and roles of FERC and the States be addressed in a rulemaking?

Answer: Any rulemaking should be especially cognizant of not simply eliminating specialized State or regional reliability requirements in the name of uniformity. State requirements that maintain regional reliability and are not arbitrary or capricious should be maintained because those requirements can be most reflective of local conditions. Such local conditions could get lost in the establishment of a “one- size-fits-all” national standard setting process and reliability could suffer as a result.

Perhaps the best example of the need for respecting particular State and regional requirements can be found by examining the New York Public Service Commission’s (“New York PSC”) “Stormwatch” requirements governing service to New York City. When thunderstorms are predicted in the New York City area, the New York PSC requires utilities and

the New York ISO to run local generation in the New York City area in order to increase the safety margin associated with the potential loss of a transmission line feeding New York City. Although such requirements may not be needed in every region of the country, given the particular impacts to the financial community and the unique geographical constraints associated with serving Manhattan island, the New York PSC's requirements are most appropriate to serve the specialized needs of that area.

Neither the FERC nor the Department of Energy should do anything that strips the New York PSC or the RTOs of the authority to undertake such region-specific reliability requirements. The FERC can maintain appellate authority to ensure that a particular State's or RTO's requirements are neither arbitrary nor capricious nor unduly burdensome to neighboring regions. But if such requirements survive such review, they should not simply be wiped out in the name of national standards.

7. Recognizing the international nature of the interconnected transmission grid, how could implementation of mandatory reliability standards be coordinated with Canada and Mexico?

Answer: PJM currently works closely with its counterparts in Ontario in order to ensure that region-wide reliability is maintained and that inter-RTO "seams" issues are appropriately addressed. In fact, PJM has entered into a Memorandum of Understanding with its counterparts in Ontario as well as New York and New England for just this purpose. Thus, much can be done through existing processes where there is a willingness of the regions to dedicate resources and expertise to solve problems.

That being said, should a more formal arrangement be desired, legislation and international agreements may be needed to provide an appropriate jurisdictional body to resolve cross-border disputes. Legislation should focus on giving FERC authority to create joint boards with its counterpart regulators in Canada and Mexico. Such a provision would strengthen the

fundamental prerequisites of Order No. 2000, which delegate short-term reliability and long-term planning to the appropriate regions of the country with appropriate regulatory oversight.

PJM appreciates the opportunity to provide these comments in response to the Department's Notice of Inquiry. PJM stands ready to assist the Department and the FERC as it seeks to address these complex issues.

Respectfully submitted,

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